

EX PARTE OR LATE FILED

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AUG 15 1994

**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY**

Paul C. Besozzi

August 15, 1994

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222, Stop Code 1170
Washington, D.C. 20554

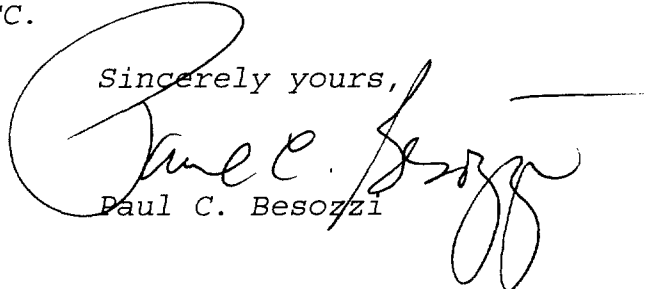
DOCKET FILE COPY ORIGINAL

Re: Ex Parte Presentation -
Docket 93-252 - K. Steven Roberts

Dear Mr. Caton:

In accordance with Section 1.1206 of the Commission's Rules, enclosed are two (2) copies of a written ex parte presentation made in subject docket. An identical presentation was submitted to each of the Commissioners of the FCC.

Sincerely yours,



Paul C. Besozzi

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Enclosures

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EX PARTE OR LATE FILED
K. STEVEN ROBERTS

Ex Parte Presentation

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

August 12, 1994

Commissioner Rachalle B. Chong
Federal Communications Commission
1919 M. Street, NW, Room 844
Washington, D.C. 20554

Re: Docket 93-252 - "*Pending Applications*" for 800 MHz Specialized Mobile
Radio Licenses

Dear Commissioner:

I represent and write on behalf of many Specialized Mobile Radio ("SMR") Licensees which have pending applications for additional 800 MHz SMR licenses. The Commission has issued a News Release announcing adoption of a new regulatory scheme for commercial mobile radio service ("CMRS") providers, including 800 MHz SMR licensees. The News Release announces a suspension, effective immediately, of acceptance of new 800 MHz SMR applications pending FCC adoption of new licensing rules.

The News Release does not address the matter of currently-pending 800 MHz SMR applications, many of which have been on file since early fall 1993. However, I understand that the Commission may be considering a delay in processing or even a possible return of these pending applications as part of the implementation of a new wide-area SMR system design.

Any decision to return the pending applications would be grossly unjust and, in my view, an abuse of the Commission's discretion. Numerous applicants, many of which are my clients, invested very significant amounts of time and money to identify available 800 MHz SMR frequencies through a Commission-designated frequency coordinator and thereupon file the pending applications in full accordance with, and in good faith reliance on, the FCC's existing rules. To retroactively pull the regulatory rug out from beneath these honest efforts would be unconscionable. The Commission should not be a party to such a disenfranchisement.

A Commission action seeking to return pending applications would constitute an unjust taking of the rightfully established rights of the applicants associated with the pending applications. Without question, such an action would, and should, be subject to challenge in the courts.

August 12, 1994

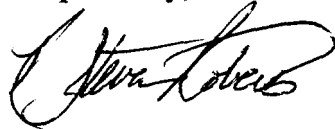
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The Commission may appropriately decide that a framework for wide-area SMR licensing is in the public interest, to solicit comment thereon, and to then adopt such a framework. However, it is quite another matter for the Commission to ignore and indeed destroy the rights of applicants who long-ago followed and relied on the Commission's rules.

The processing of pending 800 MHz applications would not interfere with the implementation of a new wide-area SMR system design. Any new wide-area SMR system design must make allowance for licenses already in existence. Therefore, processing of pending 800 MHz applications would merely add new licensing to those licenses already in existence without additional burden to the implementation of a new wide-area SMR system design. I strongly urge the Commission to continue processing those pending 800 MHz applications on file with the Commission as of August 9th in accordance with the FCC rules in effect at the time said applications were filed.

In accordance with Section 1.1206 of the Commission's Rules, two (2) copies of this letter are being submitted to the Secretary for inclusion in the public record.

Respectfully,

A handwritten signature in cursive script, appearing to read "K. Steven Roberts".

K. Steven Roberts